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In re Application of :
HONG et al. :
Application No.: 10/508,759 : DECISION
PCT No.: PCT/KR03/00564 :
Int. Filing Date: 22 March 2003 :
Priority Date: 22 March 2002 :
Attorney's Docket No.: DE1586 :
For: HUMANIZED ANTIBODY AND PROCESS :
FOR PREPARING SAME :

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed 24 July 2006 in the United States Patent and Trademark Office (USPTO), which has been treated as a petition under 37 CFR 1.181, and applicants' "PETITION TO ACCEPT INFORMATION DISCLOSURE STATEMENT" filed 07 August 2006 in the USPTO, which also has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 March 2003, applicants filed international application PCT/KR03/00564, which designated the United States and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 22 September 2004, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 19 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES (Form PCT/DO/EO/922) indicating, *inter alia*, that a copy of the "Sequence Listing" in computer readable form which complied with the requirements of 37 CFR 1.822 and/or 1.823 was required. The Notification set a two-month extendable period for reply.

On 01 August 2005, applicants filed a "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE REGARDING PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES" which included a paper copy of the "Sequence Listing".

On 12 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION mailed 19 April 2005.

On 24 July 2006, applicants filed a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" which was accompanied by, *inter alia*, a paper copy of the "Sequence Listing", a copy of the "Sequence Listing" in computer readable form, and a postcard receipt date-stamped 01 August 2005 by the USPTO.

On 07 August 2006, applicants filed a "PETITION TO ACCEPT INFORMATION DISCLOSURE STATEMENT" which was accompanied by, *inter alia*, a postcard receipt date-stamped 27 June 2005 by the USPTO and an Information Disclosure Statement form.

DISCUSSION

Petition to Withdraw Holding of Abandonment

It is not clear whether the copy of the "Sequence Listing" in computer readable form filed 01 August 2005 was matched with the application file. Nevertheless, Applicant has provided sufficient evidence to establish that on 01 August 2005 applicant did file a copy of the "Sequence Listing" in computer readable form. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 01 August 2005 and which itemizes a "Replacement Diskette" and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the diskette filed 24 July 2006 is a copy of the diskette originally filed 01 August 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the diskette received on 24 July 2006 may properly be accepted as originally received in the USPTO on 01 August 2005. The NOTIFICATION OF ABANDONMENT mailed 12 July 2006 is hereby vacated.

Petition to Accept Information Disclosure Statement

Applicant has provided sufficient evidence to establish that on 27 June 2005 applicant filed an Information Disclosure Statement (IDS). The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 27 June 2005 and which itemizes an IDS and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the IDS filed 07 August 2006 is a copy of the IDS originally filed 27 June 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the IDS received on 07 August 2006 may properly be accepted as originally received in the USPTO on 27 June 2005.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 12 July 2006 is **VACATED**.

The petition under 37 CFR 1.181 to accept the IDS filed 07 August 2006 as having been originally filed on 27 June 2005 is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.



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